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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/316,938	05/21/1999	MICHAEL THORSEN	1685	8498

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/316,938

Applicant(s)

THORSEN ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). AW 2175
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-6 and 8-17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Freeman Jr. et al. ('035), hereafter referred to as ("Freeman").

Claims 1-2: Freeman discloses a payment process for paying health care provider claims for services delivered (110 in FIG. 3). The payment derives from an aggregate fund (a bank). A primary funding process exists where an insurance company (which may also be a self insuring employer, col. 2, line 16 of Freeman) transfers funds to the aggregate fund/bank in exchange for its complete payment of services to the provider (114 in FIG. 3). A secondary funding process exists where the patient receiving the services makes payment to the aggregate fund/bank (114 in FIG. 3). A tertiary funding process exists where the patient receives credit from the aggregate fund/bank in order to assist the patient in paying the patient's share of the medical expenses (100 in FIG. 3). Col. 8, lines 33-36 describes a reporting process where a patient receives a standard bill describing the services rendered and the patient's share of the claim. A standard bill for services will inherently include language which is plain enough to permit the patient to understand that payment is being required.

Claims 3-5: In Freeman, a health insurance provider will provide a cost report to a management service, which passes the report on to a first entity in the form of a bank (106-110 in FIG. 3). The first entity (bank) then sends statements to the self-insured employer and to the

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patient (step 112 in FIG. 3). The statement also reads as a report. The report will inherently include language which is plain enough to permit the patient to understand that a payment is being required. A listing on the bill of only one family member will read as a sorting by family member. The first entity (bank) then collects payment from the self-insured employer and patient while simultaneously providing immediate payment to the health insurance provider. Payment is made to the health insurance provider by the first entity (bank), regardless of whether or not the self-insured employer or patients have provided payment. The first entity provides credit to the patient (100 in FIG. 3) and calculates the credit risk of the patient (col. 6, lines 45-49). The calculation results in a transactional fee (col. 2, line 39) to cover the risk of default by the patient.

Claims 6 and 8: Freeman discloses a computer processor and storage device (310 in FIG. 2). First means (320 in FIG. 2) processes health care data by a health care provider. Second means (325 in FIG. 2) processes data regarding self-insured employers and employees. Third means (315 or 330 in FIG. 2) processes data regarding all services rendered during a year. A fourth means (connection 327 in FIG. 2) permits the transmission of a report to the self-insured employer of the amount owed for services rendered to the patient. A fifth means is a report to individual employees in the form of a bill (col. 8, lines 33-36). The bill will inherently include language which is plain enough to permit the patient to understand that a payment is being required. If the bill lists only one family member, the bill is inherently sorted by family member. With respect to claim 8, a "sixth means" is provided, in the form of an electronic transfer system for assuring payment of the health care provider. An additional "seventh means" is provided by the bank which processes data regarding the amount owed by the bank.

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Claims 9, 11 and 13: Columns 33-34, lines 8-25 discloses the statement that is presented to the patient. The statement is submitted monthly, rather than by individual claims, and shows all claim activity for that month and the details of each claim.

Claims 10, 12 and 14: Columns 29-30, lines 1-20, describe the statement prepared and shows the aggregate charges that are to be paid by the insurance company. The insurance company may be an employer or (col. 2, line 16) who is providing self insurance. The insurance company is inherently a “plan sponsor”, as is any participating party in the system of Freeman.

Claim 15-17: An explanation of benefits and payments is sent to the patient. If the explanation only lists one family member, than it is inherently sorted by family member.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman Jr. et al. ('035) in view of Official Notice.

Claims 17-18: Freeman alternatively provides for the payment of a doctor for services rendered (col. 8, lines 21-26). Examiner takes Official Notice that it is well known in the art to pay a physician by mailing a statement describing the payment, along with a check for the payment. It would have been obvious to one of ordinary skill in the art to modify Freeman to pay a physician by mailing a statement accompanied by a check, as well known accountable technique for payment of physicians.

Remarks

Applicant's arguments have been considered but are not well taken. Applicant's arguments pertain to alleged rejections made under 35 USC 112, sixth paragraph and "35 USC 112(e)".

Both the previous office action and the present office action have been reviewed, and Examiner finds that no rejections have ever been applied under 35 USC 112. In addition, the statute referred to as "35 USC 112(e)" does not exist.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', is positioned above the printed name and title.

Sam Rimell
Primary Examiner
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